

# ANNUAL REPORT 2004

UNITED STATES ATTORNEY'S OFFICE



A Report from Thomas P. Colantuono  
United States Attorney for the District of New Hampshire

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November 2004

Dear Fellow Citizens of New Hampshire:

I am pleased to present this year's report on the work of the United States Attorney's Office for the District of New Hampshire.



As United States Attorney, I have the privilege to lead a team of talented and dedicated professionals who are committed to fulfilling the Department of Justice mission in New Hampshire. In FY 2004, the Office continued to increase its efforts to protect America from the threat of terrorism; to protect the rights and interests of the American people; to enforce federal criminal laws; and to prevent and reduce crime and violence by assisting state, local and community-based programs. This report highlights some of the achievements of our Office in these areas.

None of the work described in this Report could have been accomplished without the help of our federal, state and local partners. Our Anti-Terrorism Advisory Council, and our Operation Streetsweeper, Weed and Seed and Project Safe Neighborhoods initiatives, are just a few of the projects that have succeeded only with their involvement and support.

The cooperation that exists among New Hampshire's federal, state and local officials is something that we can take great pride in as members of the government and law enforcement community. I look forward to working with them in the year ahead to ensure our continued success in protecting New Hampshire and its citizens.

Very truly yours,

Thomas P. Colantuono  
United States Attorney

## BIOGRAPHY OF THOMAS P. COLANTUONO

Thomas P. Colantuono is the United States Attorney for the District of New Hampshire, having been nominated by President George W. Bush in December 2001.

Born in Newton, Massachusetts, he received a B. A. from Duke University in 1973 and a J. D. from Boston College Law School in 1976.

Upon graduation from law school, Mr. Colantuono practiced as an Associate with the law firm of Hamblett & Kerrigan from 1976 to 1978. From 1978 to 1981 he served as Assistant Attorney General at the New Hampshire Attorney General's Office. From 1981 until December 2001, he was engaged in private practice at his law office in Derry, New Hampshire. Mr. Colantuono also served as the Executive Councilor for District 4 in New Hampshire from 1999 to 2001, and as a State Senator from 1990 to 1996.



**Attorney General John Ashcroft greets  
U.S. Attorney Colantuono during his visit  
to the District of New Hampshire, June 11, 2003**



**FBI Director Robert S. Mueller III meets  
with U. S. Attorney Colantuono as he visits  
the FBI Boston Field Office**

## INTRODUCTION TO THE U.S. DEPARTMENT OF JUSTICE AND UNITED STATES ATTORNEY'S OFFICE

The United States Department of Justice is the protector of America's freedom. Its mission is to defend the life and liberty of the American People. The Department carries out its responsibilities by its commitment to:

- Prevent terrorism and promote America's security;
- Enforce federal laws and represent the rights and interests of the American People;
- Assist state, local and tribal efforts to prevent or reduce crime and violence; and
- Ensure the fair and efficient operation of the federal justice system.

The Department of Justice has produced results in each of these important areas by:

- Dismantling terrorist cells, disrupting weapons procurement plots, shutting down terrorist-affiliated charities, and establishing a terrorism prevention strategy;
- Prosecuting more federal gun-crime charges and more defendants with federal gun crimes, contributing to a 30-year low in violent crime and substantial reductions particularly in robberies, assaults and rapes, advocating for greater prison terms for violent offenders, dismantling priority drug trafficking organizations and tracking down more criminal fugitives;
- Collecting more in civil and criminal forfeitures; increasing the number of corporate fraud prosecutions and cases charging civil rights and bias-motivated crimes; and
- Establishing outreach initiatives and partnerships with all levels of government, including Anti-Terrorism Advisory Councils, Project Safe Neighborhoods and Weed and Seed programs, and law enforcement working groups focusing on prevention, disruption and prosecution of priority criminal activities.

The United States Attorney's Office is charged with fulfilling each part of the Department of Justice mission in New Hampshire. Its accomplishments are exemplified by the work of its Criminal, Civil, Appellate, and Administrative Divisions, and its Anti-Terrorism Advisory Council.



## MISSION STATEMENT

*“The mission of the United States Attorney’s Office for the District of New Hampshire is to work together with federal, state, county, and local partners to protect the citizens of the district from terrorism and crime, to provide top quality legal representation, to enforce federal laws and advance the interests of the United States Government, and to attain the highest standards of professionalism in our trial and appellate advocacy.”*



## ANTI-TERRORISM ADVISORY COUNCIL

Fighting terrorism is the first priority of the Department of Justice. Each U.S. Attorney's Office has important anti-terrorism responsibilities. As the chief federal law enforcement officer in New Hampshire, U.S. Attorney Tom Colantuono chairs the Anti-Terrorism Advisory Council (ATAC), a group of law enforcement and other government officials whose departments are important to the anti-terrorism effort in New Hampshire.

The mission of the ATAC is to disrupt terrorist activity and to prevent the loss of life and property. In contrast to the normal reactive mode of law enforcement, i.e., a completed crime occurs and law enforcement investigates, arrests, and prosecutes the perpetrators, the ATAC is tasked with preventing crime by investigating suspicious activity that is consistent with terrorist behavior. The NH ATAC includes the following agencies:

Bureau of Alcohol, Tobacco, Firearms and Explosives	New Hampshire Police Standards & Training Council
Concord Police Department	New Hampshire National Guard
Defense Criminal Investigative Service	Newington Police Department
Department of State Diplomatic Security Service	Portsmouth Police Department
Drug Enforcement Administration	Rockingham County Attorney's Office
Environmental Protection Agency	Rockingham County Sheriff's Office
Federal Bureau of Investigation	Seabrook Police Department
Hillsborough County Attorney's Office	U.S. Air Force
Internal Revenue Service	U.S. Attorney's Office, District of Maine
Londonderry Police Department	U.S. Department of Agriculture
Manchester Police Department	U.S. Department of Commerce
Manchester Airport Security	National Oceanic and Aviation Administration
Merrimack County Attorney's Office	National Marine Fisheries Service
Nashua Police Department	U.S. Department of Homeland Security
Naval Criminal Investigative Service	Bureau of Customs and Border Protection
New England Division, AMTRAK	Bureau of Immigration and Customs Enforcement
New England HIDTA	Coast Guard
New Hampshire Department of Justice	Coast Guard Investigative Service
New Hampshire Department of Safety	Federal Air Marshals
Director of Homeland Security	Federal Protective Service
NH State Police	Secret Service
NH Fire Marshal's Office	Transportation Security Administration
Division of Safety Services, Marine Patrol	U.S. Marshals Service
New Hampshire Fish and Game Department	U.S. Postal Inspection Service
	U.S. Probation Office



A core group of ATAC members meets weekly in the U.S. Attorney's Office, and the full ATAC meets every other month. The ATAC also works with the Joint Terrorism Task Force (JTTF), the group of agents who form the operational arm of the counter-terrorism effort. Led by the FBI and located in Bedford, NH the JTTF is made up of agents from the FBI, Department of Homeland Security, Immigration and Customs Enforcement, the New Hampshire State Police, and other departments which are able to contribute personnel.

An important part of the ATAC mission is to foster communication among federal, state and local agencies, and to coordinate anti-terrorism resources and initiatives. The U.S. Attorney is assisted in these responsibilities by Executive Assistant U.S. Attorney Michael J. Gunnison, who serves as ATAC Coordinator, and is the designated prosecutor for terrorism matters. Another key member of the U.S. Attorney's staff is Intelligence Analyst Tim Hanes. In this capacity, Tim identifies and researches terrorism issues that are important to the safety of New Hampshire's citizens and the security of New Hampshire's infrastructure. He also disseminates news and information on a daily basis to members of the ATAC and to police departments throughout the state.

The U.S. Attorney also supports the fight against terrorism in numerous projects and operations designed to improve the security of our airports, coastal facilities and international borders, as well as our nation as a whole:

### *Canada/United States Cargo Security Project*

U.S. Attorney Tom Colantuono is Co-Chair of the Canada/United States Cargo Security Project (CUSCSP), a public/private initiative designed to study ways to assure the safety of the cargo container supply chain. CUSCSP, (formerly known as "Operation Safe Commerce"), recognizes the danger that terrorists could smuggle dangerous materials into the United States in cargo containers, millions of which enter the United States from overseas each year. Among the strategies developed by CUSCSP to deal with this threat is a system that would use modern technology to seal, track, and monitor containers from their point of origin to their final destination, thus effectively pushing our borders back to the point of origin. This system was first tested in 2002 with a container shipment that was successfully tracked from its point of origin in Slovakia, to its final destination in Hillsborough, NH. CUSCSP has now entered the second phase of the project, with additional testing of more sophisticated technology on supply chains running through the Ports of Halifax and Montreal into New England. CUSCSP has become an international partnership including the States of New Hampshire, Vermont, Maine,



and the Provinces of Quebec and Nova Scotia, as well as federal agencies on both sides of the border.



May 2003 Cross Border Crime Forum, White Sulphur Springs, W. Virginia from left to right: Solicitor General Easter of Canada, U.S. Attorney Colantuono, and Attorney General Ashcroft

### *Achieving Cooperation*

Through the work of our ATAC, the Coast Guard, New Hampshire Marine Patrol and Maine Marine Patrol, worked out an arrangement to maximize the effectiveness of patrol assets in the area of the Piscataqua River and Portsmouth Harbor. Under the new arrangement, officers of the New Hampshire and Maine Marine Patrols are legally authorized to respond to suspected terrorist or criminal activity on either side of the state border in the Piscataqua River and Portsmouth Harbor. The arrangement became effective in February 2004 as a result of reciprocal legislation enacted by the New Hampshire and Maine Legislatures.

### *Border Protection*

U.S. Attorney Tom Colantuono has taken a special interest in issues involving the United States/Canada border. He has played an active role in the Counter-Terrorism Subgroup of the Cross Border Crime Forum and also serves on the Attorney General's Advisory Committee Subcommittees on Border and Immigration Issues, and Terrorism and National Security. Part of the task of securing the border is in working together with our Canadian counterparts. The U.S. Attorney's Office has developed significant relationships with other Canadian

and U.S. agencies by working with International Border Enforcement Teams (IBETs) that operate in New Hampshire, Maine, New York and Vermont. In addition, the U.S. Attorney's Office participates actively in Project North Star for the Eastern and Atlantic Regions, as well as other cross-border law enforcement coordination groups.



U.S. Attorney Colantuono and Intelligence Research Analyst Tim Hanes take a tour of the New Hampshire/Canada border with U.S. Customs officials on September 1, 2004

### Training

Part of the United States Attorney's ATAC mission is to provide training for law enforcement and to promote readiness among federal, state and local officials in the event of a terror-related incident. Over the past year, the ATAC sponsored State and Local Anti-Terrorism Training (SLATT) programs, which provide training to law enforcement in the areas of domestic terrorism, international terrorism, alien documentation and immigration issues and police officer safety. The full-day training sessions feature instructors from the FBI and the Department of Homeland Security Bureau of Immigration and Customs Enforcement. The United States Attorney's Office also worked with the New Hampshire Department of Health and Human Services and the Manchester Health Department to provide joint training for law enforcement and public health officials in the area of bio-terrorism. The goal of these training programs is to prepare public health officials and criminal investigators to work with each other by becoming familiar with their respective personnel, terminology and roles.

## Operation Iraqi Freedom

Two members of the U.S. Attorney's staff were deployed in Iraq during 2004 in support of Operation Iraqi Freedom.

Law Enforcement Coordinator Mark Long was called to active duty in the U.S. Air Force in April 2004. Mark served as Chief Master Sergeant with the 407<sup>th</sup> Expeditionary Security Forces Squadron at Tallil Air Base in Southern Iraq. He returned to the U.S. Attorney's Office on November 1, 2004 after serving 5 months with his unit.

ATAC Coordinator Michael Gunnison served a 3-month volunteer detail with the Coalition Provisional Authority in Baghdad. Between March and June 2004, Mike drafted proposed laws, assisted in judicial training programs and worked with judges at the Central Criminal Court of Iraq. He was also appointed by Ambassador L. Paul Bremer to the Iraq Judicial Review Committee, the body responsible for appointing, removing and reinstating members of the Iraq judiciary.



CMSGT Mark Long outside Tallil Air Base, Iraq



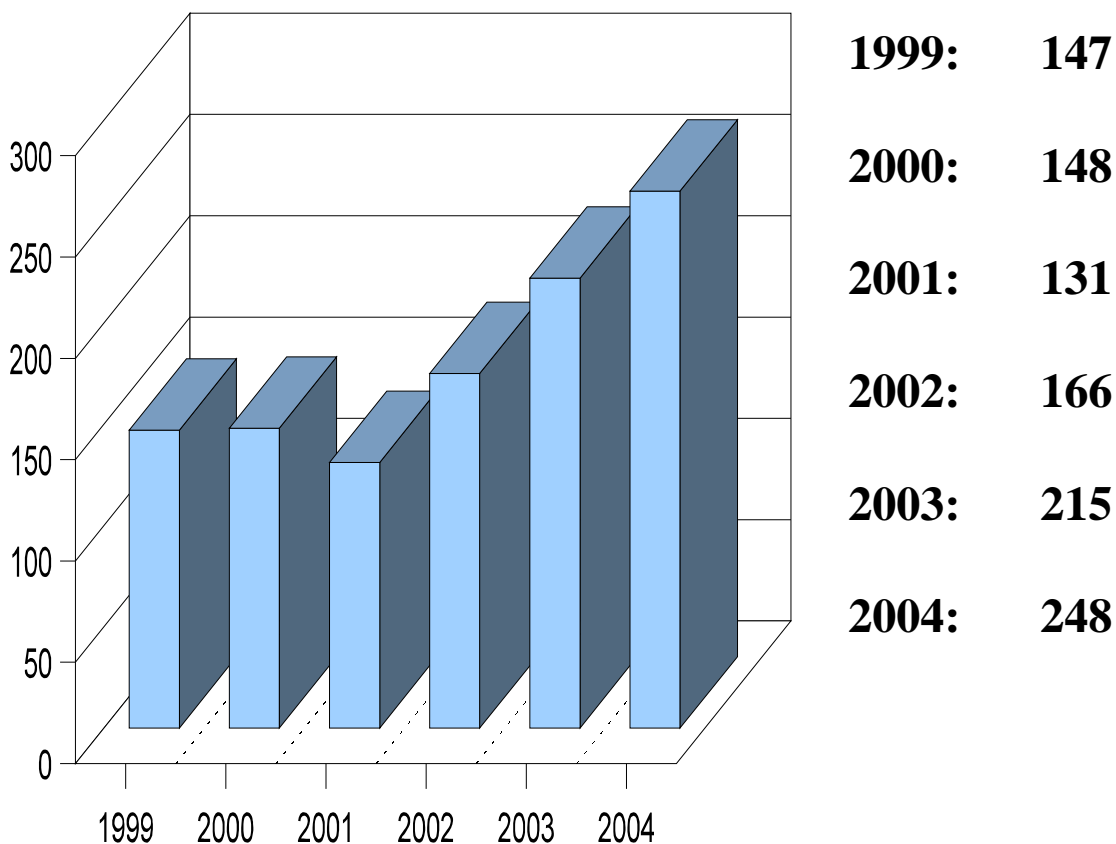
AUSA Wayne Rich (EDTN), ATAC Coordinator Mike Gunnison, U.S. Army Capt Zareh Beylarian, and AUSA Cliff Wardlaw (D MN) in Baghdad

## CRIMINAL DIVISION

The United States Attorney is the chief federal law enforcement officer of the United States within his or her jurisdiction. In carrying out this responsibility, the most visible function of the United States Attorney is to prosecute violations of federal crimes occurring in the District.

The United State Attorney's Office in New Hampshire currently has 15 Assistant U.S. Attorneys ("AUSAs") assigned to the Criminal Division which is led by Criminal Division Chief Donald A. Feith. In 2002, the Criminal Division was reorganized to improve efficiency and to make better use of the talents of the Criminal Division's prosecutors. The Criminal Division is now organized in two sections: the Violent Crime Section and the White Collar Crime Section. The Sections are headed-up by Section Supervisors who assist the Criminal Chief in managing the work of the Criminal Division. The work product of the Criminal Division has increased dramatically in each fiscal year beginning in 2002.

### Indictments and Informations Filed



The federal prosecutions brought in FY 2004 represent an 85 percent increase over the number of criminal cases prosecuted in 2001. This record is a credit to the prosecutors and staff of the Criminal Division who have worked hard to meet the Criminal Division's strategic goals in an increasingly challenging environment.

The information below provides a sampling of the work conducted by the Criminal Division during FY 2004 in many of the subject areas within the Criminal Division's responsibility.

### Violent Crime Section

The Violent Crime Section is supervised by Section Supervisor and Lead OCDETF Attorney Joseph N. Laplante. The Violent Crime Section is responsible for the investigation and prosecution of cases involving drugs, firearms, explosives, bank robberies and other crimes of violence. The caseload of the Violent Crime Section is extremely varied and includes cases involving arson, assaults on federal officials, extortion, loan sharking and racketeering committed by organized crime groups, and crimes involving child pornography and the sexual exploitation of children. Within the Violent Crime Section, designated Assistant U.S. Attorneys work as part of the Organized Crime and Drug Enforcement Task Force (OCDETF) in investigating and prosecuting drug cases and drug-related offenses which involve major illegal drug importation and distribution organizations. The following are examples of some of the cases investigated and prosecuted by the Violent Crime Section during the past year.

#### Bank Robberies

U.S. v. James T. Lata, Sr. The 61-year old defendant, with a significant criminal history, was convicted of bank robbery at trial in May 2004 for perpetrating a robbery at Citizens Bank in Nashua in November 2002. His disguised image was captured on bank surveillance cameras, and he was later located in Ocean Springs, Mississippi. Clothing and two bags used during the robbery were recovered from the defendant's van and hotel room. He was sentenced to 8 years imprisonment.

U.S. v. Gary Sahlin A former Manchester Police Officer, Sahlin was sentenced to 25 years imprisonment for an August, 2003 armed robbery of a Fleet Bank branch office. Sahlin traveled from Florida with his girlfriend and stole a Manchester Police Department patrol vehicle, using an ignition key which he had kept after resigning from the police force. Sahlin later drove the vehicle to the bank and carried out the robbery using a Colt

M16A1, 5.56 caliber semi-automatic assault weapon which was located in the trunk of the police vehicle. The robbery netted nearly \$24,000, which Sahlin shipped to Florida. Investigators succeeded in recovering most of the stolen money from the defendant's Pompano Beach residence.

### Gang Prosecutions

The U.S. Attorney's Office, in partnership with the Hillsborough County Attorney's Office, cracked down on drug-related gang activity in Nashua, NH in an investigation coordinated with the Nashua Police Department's Narcotics Intelligence Division and DEA's Northern New England HIDTA Task Force. The gang initiative resulted in the prosecution of six members of "Tha Fam," a group of individuals living in Nashua bearing tattoos reading "THA FAM" or "FAM 4 LIFE" who engaged in the street level distribution of crack cocaine in Nashua during 2002 and 2003. The gang members were recently sentenced to prison terms of up to six and a half years. The initiative serves to demonstrate the commitment of New Hampshire's federal, state, and local law enforcement agencies to aggressively prosecute drug traffickers, including the street-level crack dealers, in order to combat the disastrous impact of crack cocaine on our urban neighborhoods and their residents.

### Narcotics

U.S. v. Jason Messina, et al (7 defendants) On September 22, 2003, Messina entered a guilty plea before U.S. District Judge Steven J. McAuliffe to an information charging him with possession with intent to distribute over 1000 kilograms of marijuana. At sentencing, Judge McAuliffe sentenced Messina to 70 months (5 years, 10 months) imprisonment and a \$4,000 fine, as well as a 5-year period of supervised release during which Messina's behavior will be monitored by the U.S. Department of Probation. Messina was the supplier of a six-person marijuana distribution ring operating in northeast Massachusetts and southeastern New Hampshire. Each member of the ring – some of whom were career offenders under the U.S. Sentencing Guidelines – were convicted and received federal prison sentences.

U.S. v. Junior Paulino et al. (4 defendants) Paulino, a Lawrence, Massachusetts-based crack cocaine dealer, and three Laconia, NH residents, were convicted on crack distribution charges. Paulino was sentenced to 60 months imprisonment, and faces deportation. Paulino was the Massachusetts-based source of supply to a three-person drug distribution network that sold "crack" cocaine in the Lakes Region during January and February, 2003. Also convicted and sentenced in the case were John Swain of Northfield, NH, Christopher Langill, formerly of Belmont, NH and Mark Camire of Belmont, NH.

## Gun Crimes

U.S. v. Russell Seace Seace, a white supremacist affiliated with the white supremacist Church of Jesus Christ Christian and Aryan Nation organizations, entered a guilty plea before U.S. Magistrate Judge James R. Muirhead to an information charging him with being a felon in possession of a firearm in Hampton Beach on April 15, 2003. Seace was arrested there after he took possession of a .45 caliber firearm from a confidential informant as part of an FBI investigation into his activities. He was sentenced to 63 months imprisonment.

U.S. v. Gerard Boulanger The defendant was convicted at trial for the armed robbery of a Brooks Drug store in Rochester, NH. He was also convicted of being a felon in possession of a firearm, using a firearm during a crime of violence, and possessing oxycontin with the intent to distribute. Disguised and wearing a mask, Boulanger committed the robbery at gunpoint, during which he obtained over 1100 methadone and oxycodone tablets. He became a suspect after he was questioned in the vicinity of the pharmacy. Later, Rochester Police, with the help of the NHSP, made a controlled purchase of oxycodone from the defendant at a Rochester apartment and obtained a search warrant which led to the seizure of a firearm and oxycontin tablets. Police also discovered the disguise and empty pill bottles in a culvert behind the drug store and near where the defendant had been stopped. Based on his three prior convictions for armed robbery. Boulanger faces a minimum mandatory 15 year sentence as an armed career criminal. He also faces an additional 7 years for brandishing the gun during the robbery.

U.S. v. Shaun Hibbard Hibbard entered a guilty plea to an information charging him with possession of a firearm in furtherance of a drug trafficking crime, and received a 60-month sentence. Hibbard attempted to trade a semi-automatic AK-47 assault rifle to an undercover NHSP detective for an ounce of "crack" cocaine in Tilton, NH on July, 1, 2003.

U.S. v. Mark Lattin Lattin entered a guilty plea to an information charging him with unlawful firearms possession, and was sentenced to 37 months imprisonment. In a sting arranged by ATF, Lattin provided a quantity of marijuana to an ATF confidential informant in exchange for three firearms: a Mossberg short-barreled shotgun, and two Davis Industries .380 caliber handguns.

## OCDETF Cases

The Organized Crime and Drug Enforcement Task Force (OCDETF) program, initiated by President Ronald Reagan in 1982, combines the resources of various agencies within the Department of Justice (U.S. Attorney's Office, DEA, FBI, ATF, the U.S. Marshals Service) the Department of Homeland Security (ICE,



the U.S. Coast Guard), the Treasury Department (IRS Criminal Investigation Division) and divides them into several Regional Task Forces in order to combat the largest national and international drug trafficking and money laundering organizations and to significantly reduce the illicit drug supply in the United States. The District of New Hampshire is part of New England OCDETF, and has two prosecutors assigned to OCDETF work.

Operation Hot Wings – the Ku Klux Klan Motorcycle Gang This OCDETF operation involved several prosecutions which effectively dismantled a methamphetamine conspiracy perpetrated by the Ku Klux Klan Motorcycle Club (KKKMC). The conspiracy involved over 35 lbs of crystal methamphetamine. Among the defendants was the KKKMC's methamphetamine source in Phoenix, Arizona, who was charged with conspiring with the KKKMC to distribute crystal methamphetamine in New Hampshire. During the investigation, DEA agents seized over seven pounds of 80% pure crystal methamphetamine, over 25 firearms including handguns, assault and conventional rifles and shotguns, approximately \$40,000 in cash, a 2002 custom-built motorcycle, KKKMC gang insignia and assorted Ku Klux Klan propaganda. Two of the defendants have been sentenced to prison terms of 10 years and 12 ½ years respectively. Eight others have also been convicted thus far.

Operation Big Papa – U.S. v. Phillip Puopolo, et al. Seventeen individuals from New Hampshire, Massachusetts, and Colombia were convicted on narcotics and weapons charges arising from a 2-year, multi-agency investigation centered around the cocaine and methamphetamine trafficking activities of Philip Puopolo of Belmont, NH and his Massachusetts-based Colombian source. The investigation included a month-long wiretap of Puopolo's cellular telephone and numerous undercover multi-ounce cocaine purchases. Search warrants in several locations resulted in the seizure of over thirty firearms including handguns, rifles, and shotguns, and the forfeiture of over \$125,000 in cash, a 2000 custom-built motorcycle, and real estate in Belmont and Gilmanton Iron Works, NH.

### Child Exploitation

U.S. v. Dustin Buttrick Defendant was convicted at trial of traveling in interstate commerce for the purpose of engaging in illicit sexual conduct. Following an undercover investigation, Buttrick was arrested by the Portsmouth Police Department after arriving at a pre-arranged location where he intended to meet a 14-year-old girl to engage in sexual conduct. The defendant arranged the meeting in internet correspondence in which the intended 14-year-old victim was in fact an undercover police officer conducting an investigation of online solicitation of minors. Buttrick was detained by the Court pending his December, 2004 sentencing.

U.S. v. Gary Foster Foster was sentenced to a 51-month prison term for possessing child pornography. An investigation by the FBI and the Manchester Police Department showed that Foster had transmitted images of child pornography through the internet. Computers and other evidence seized from the defendant's computer contained thousands of images of child pornography. The Court imposed an enhanced sentence for distributing to others.

### White Collar Crime Section

The White Collar Crime Section is supervised by Section Supervisor Robert M. Kinsella. The White Collar Crime Section is responsible for the investigation and prosecution of economic crimes, including bank fraud, health care fraud, securities fraud, credit card fraud, insurance fraud, bankruptcy fraud, defense procurement fraud, telemarketing fraud, postal crimes and money laundering offenses. Members of the White Collar Crime Section are also responsible for cases involving public corruption, environmental crimes, tax offenses, computer hacking and intellectual property crimes, civil rights violations, and cases involving identity and other document fraud, including passport and visa fraud.

### Canadian Telemarketing Cases

A lottery scheme by Canadian telemarketers, which inflicted losses of approximately \$6 million on elderly United States citizens, is the subject of a 15-defendant prosecution and a companion civil forfeiture case in New Hampshire. The prosecution, which includes charges under RICO, is scheduled to be tried in U.S. District Court in Concord in January, 2005. Several defendant's have also entered guilty pleas. The companion forfeiture action involves the seizure of \$4.5 million from the correspondent accounts of seven Middle Eastern banks where the monies were laundered. The seizure was carried out under new Patriot Act provisions authorizing the seizure of criminally-derived monies from the correspondent bank accounts of foreign banks, (18 U.S.C. § 981(k)), and is one of the first of its kind in the nation. Of the seized funds, \$1.3 has already been forfeited based on a settlement with Israel Discount Bank and the failure of five other Israeli banks to file claims.

### Corporate Fraud Task Force

U.S. v. Enrique Fiallo The U.S. Attorney's Office and the Department of Justice Fraud Section have worked together as part of the President's Corporate Fraud Task Force to investigate and prosecute cases involving illegal corporate accounting practices. Enrique "Henry" Fiallo recently entered a guilty plea to a charge of Conspiracy to Commit Securities, Mail and Wire Fraud based on accounting fraud which took place as part of a scheme to falsely inflate revenues at Enterasys Network Systems, Inc., in order to meet Wall Street earnings expectations. Fiallo formerly held the positions of Chairman, Chief

Executive Officer and President of Enterasys. Fiallo admitted to a scheme to make up for revenue shortfalls by "investing" Enterasys funds in "investee" companies in return for purchases of Enterasys products with those same funds. In many instances, the "investee" companies were financially unable to pay for the products without the funds supplied by Enterasys, and the "investee" companies were directed to use Enterasys monies to purchase Enterasys products from Enterasys' outside distributors and third party resellers. A series of "three corner" transactions were undertaken so that Enterasys' books and records would not reveal the connection between Enterasys' "investment" funds and the use of those funds to purchase Enterasys products, thereby hiding the true nature of the transactions from Enterasys' outside auditors and the investing public. Three other defendants have also entered pleas in the continuing investigation.

### Tax Crime

U.S. v. Steven A. Swan Following his conviction at trial on numerous tax charges related to his tax return preparation business, Swan was sentenced to prison for six years. Between 1997 and 2002, Swan prepared so-called "zero-income" tax returns for clients in which he reported that they did not have any income despite their receipt of substantial wages, salaries and other compensation. Swan prepared more than 200 false tax returns which claimed refunds totaling over \$1 million and resulted in a \$3.2 million aggregate tax loss. Swan promoted his tax return preparation business by advertising and holding seminars at hotels entitled, "How Anyone Can LEGALLY Stop Paying Income Taxes". Swan encouraged others to file Forms W-4 falsely claiming exempt status to stop the withholding of income taxes. Swan also obstructed the administration of the tax laws through a campaign of harassment and intimidation. Swan filed numerous frivolous lawsuits and otherwise interfered with the work of IRS collection employees, banks, title companies, and a recorder of deeds who had complied with lawful IRS liens and levies.

### Trafficking Victims Protection Act

Two individuals from Litchfield, NH were convicted after trial and sentenced under the Trafficking Victims Protection Act of 2000. Timothy H. Bradley and Kathleen O'Dell, were sentenced to five years and ten months in federal prison on charges of forced labor, human trafficking, document servitude, wire fraud, and conspiracy. Bradley and O'Dell recruited four Jamaican citizens in Jamaica, and brought them to New Hampshire in 2000 and 2001 to work for Bradley Tree Service, Bradley's tree cutting business. They threatened two of these men with serious harm and physical restraint in coercing labor and services. The defendants also confiscated the victims' passports to keep them from fleeing, and severely restricted the victims' freedom of travel, keeping them in the state. Bradley and O'Dell physically assaulted one of the men and set a dog on him as he fled. Another victim was denied medical care when he was injured on the job. The defendants forced the men to live in a tool shed and a trailer without adequate heating or plumbing, charging \$50 per week for rent. The case was prosecuted jointly by the U.S. Attorney's Office and the Department of Justice Civil Rights Division.

## Intellectual Property

Operation Digital Piratez The U.S. Attorney's office has prosecuted numerous individuals for conspiring to violate copyright laws, (18 U.S.C. 371 & 2319(b)(1)) as part of a New Hampshire-based FBI undercover operation known as "Operation Digital Piratez". Using undercover agents and cooperating witnesses, the FBI infiltrated several internet-based computer servers, known as "warez servers" run by groups of software pirates for the illegal purpose of storing, copying, and reproducing copyright-protected software. The FBI also succeeded in penetrating secret Internet Relay Chat channels used by those involved to communicate about their software piracy activities. After searches were carried out on computer servers in nine states, the USAO prosecuted five individuals who either owned, was a site operator for, or had some other managerial role, in one or more of the targeted warez servers. The aggregate value of the software on the warez servers seized in this investigation is in the millions of dollars. One of the first individuals charged was recently sentenced to a 1-year jail sentence. Intellectual property crimes will be prosecuted with great vigor as a result of the emphasis placed on this criminal activity by Attorney General Ashcroft.

## Economic Crime

U.S. v. R. Scott Brooks The U.S. Attorney's Office prosecuted a former Bedford, New Hampshire real estate developer for providing materially false financial information to the Federal Deposit Insurance Corporation (FDIC) in violation of 18 U.S.C. Section 1007. When several banks failed in New Hampshire in the early 1990's, the FDIC was appointed receiver and took over those failed banks' loans. At the time, Brooks owed approximately \$4.5 million to one of the failed banks. In its efforts to settle and close out the outstanding loans, the FDIC demanded that Brooks provide accurate financial information so that it could determine whether to require full payment, compromise the debt, or sell the loans to a third party. Brooks provided materially false financial statements and a materially false affidavit of financial condition to the FDIC and hid \$800,000 worth of assets in Nevada corporations which he had failed to disclose to the FDIC. Based on the false financial information Brooks provided, the FDIC agreed to sell the loans to a third party at a substantial discount. The money used by the third party to purchase the judgment was provided by Brooks, who withdrew the funds from an account held by one of the undisclosed Nevada corporations. Brooks pleaded guilty and was sentenced to a year in prison and four years of supervised release on October 4, 2004.

U.S. v. Ross E. Perry Perry was sentenced to a 46-month prison term for committing a number of crimes, including the embezzlement of more than \$1.6 million over a 6-year period from a Portsmouth, NH church where he served as treasurer. Perry had pleaded guilty to the embezzlement as well as six federal income tax charges and another charge of failing to file employer tax returns on behalf of his Seabrook, NH wastewater treatment equipment company, Compliance Systems, Inc.

U.S. v. Patricio Machado This case charged a scheme to steal money from a Virginia company that hired laborers to work at publicly funded construction sites. The defendant and a conspirator: induced a company in Virginia to provide enough money to a company controlled by Machado to pay the prevailing hourly wage (mandated by federal and state law) to construction laborers who were employed by other companies; paid the workers less the prevailing hourly wage and kept the difference for themselves; and billed the Virginia company for work that had allegedly been performed by fictitious laborers. Machado and the co-conspirator used false social security numbers to identify the fictitious laborers and the laborers to whom wages were actually owed. Machado pleaded guilty to conspiracy to commit wire fraud and use of false social security numbers last May. He was recently sentenced to one year imprisonment and ordered to pay \$210,000 restitution. He will be deported to Brazil upon completion of the sentence.

U.S. v. Christine Verfaillie The defendant received an 18-month prison sentence for a fraudulent scheme she conducted in 2002 and 2003 while working as the Operations Manager of a Nashua travel agency owned by American Express Corporation. The defendant used a corporate AMEX credit card to purchase 2,488 Gift Cheques from AMEX, totaling more than \$210,000. The defendant then cashed the checks for her personal use. The defendant also submitted fraudulent business expense vouchers and monthly account statements to her employer, by which she attempted to conceal the fraudulent scheme. In addition to the prison sentence, the Court ordered the defendant to make full restitution. The defendant has repaid over \$70,000 of the stolen money to date.

### Passport Fraud

Operation Checkmate Since July 2002 the U.S. Attorney's Office has brought more than 50 cases charging passport fraud as part of an anti-terrorism initiative to uncover and prosecute cases in which fraudulent passport applications are discovered at the National Passport Center (NPC) located in Portsmouth, NH. The NPC is the largest Passport Agency in the United States and issues more than two million passports per year. It is also the place where all passport renewal applications are processed. The Department of State Diplomatic Security Service, SSA and ICE are important partners in this initiative. Operation Checkmate cases are typically brought against persons in the United States who illegally submit applications for U.S. passports that involve false claims of U.S. citizenship, false birth certificates and false social security numbers. Operation Checkmate approaches passport fraud by concentrating prosecutions in venues where passport applications are adjudicated, thereby improving accountability and eliminating the need to distribute cases to districts throughout the country where prosecution policies may vary.

## LAW ENFORCEMENT COORDINATING COMMITTEE

The Law Enforcement Coordinating Committee (LECC) performs a liaison function between the United States Attorney's Office and all other law enforcement agencies. The LECC meets regularly every two months together with the ATAC.

The Law Enforcement Coordinator (LEC) for the District of New Hampshire is Mark Long. The LEC is the primary point of contact for the LECC and is responsible for promoting cooperation among federal, state, county and local law enforcement, government agencies and community-based groups.

The LECC's primary interests include training, community outreach and project assistance. The LECC works closely with the New Hampshire Police Standards and Training Council to provide training for New Hampshire law enforcement officers. The LECC is also involved in coordinating Manchester's Weed and Seed project with the District's Project Safe Neighborhoods initiative and the New Hampshire Department of Corrections Violent Prisoner Re-Entry Program. The LEC co-chairs the Manchester, NH Weed and Seed Steering Committee, which is made up of thirty members representing residents, churches, businesses, law enforcement and community service providers. The LEC also serves as the District point of contact for the "Operation Streetsweeper" federal grant program administered by the U.S. Attorney that funds New Hampshire law enforcement agencies efforts in combating violent crime within their communities. In addition, the LEC is an active participant in the New Hampshire Association of Chiefs of Police and the New Hampshire Police Association.

### VICTIM/ WITNESS SPECIALIST

The Victim/Witness Specialist is responsible for helping crime victims and witnesses throughout the prosecution of criminal cases. The Victim/Witness Specialist in the District of New Hampshire is Sheila Roux. Her responsibilities include notifying victims of major case events, assisting witnesses with their travel and other special needs, and providing information about the judicial system so that victims know what to expect and feel more comfortable with their role as witnesses.

A major goal of the Victim/Witness Specialist is to ensure that victims are treated with dignity and respect. A recently renovated room in the U.S. Attorney's Office provides a comfortable and private atmosphere for victims to wait before being called to testify. The Victim/Witness Specialist is available to accompany victims and witnesses to court for trials and sentencing hearings, and also can refer victims for appropriate counseling and other assistance services.

The Victim/Witness Specialist provides funding for witness travel expenses and is responsible for the Emergency Witness Assistance Program. This program provides financial assistance for relocation of victims or witnesses who have been threatened or are in danger because of their cooperation with the Government in a criminal case.

Ms. Roux has been instrumental in forming partnerships with victim service providers at the federal, state and local levels, and sits on several state committees advancing the field of victim services. She also helps to keep the U.S. Attorney's Office apprized of new laws, policies and procedures surrounding victims and victims' rights and provides training for staff members to ensure victims are afforded those rights.

## CIVIL DIVISION

The Civil Division represents the interests of the federal government in civil litigation involving the United States, its agencies, and in some cases its officials and employees. Supervised by Civil Chief Gretchen Leah Witt, the Civil Division includes various specialized units, including the Asset Forfeiture Unit, the Financial Litigation Unit (FLU), and Affirmative Civil Enforcement (ACE).

Some of the six Civil Division attorneys defend lawsuits filed against the United States, representing federal agencies and federal employees in cases such as civil rights, employment discrimination, medical malpractice, personal injury, prisoner litigation, and social security. Civil Division attorneys appear in District Court, State Court, Bankruptcy Court and Appellate Court.

The Civil Division also brings civil actions to enforce the regulations of federal agencies, to enforce the tax laws of the United States, to combat civil fraud against the United States, particularly in the health care arena, to assist agencies in their enforcement or investigatory efforts, and to collect debts owed to the United States.

### Defensive Litigation

One of the primary purposes of the Civil Division is to defend the interests of the federal government in litigation. These cases can involve virtually any statute or cause of action, from defense of agency decision-making under the Administrative Procedures Act, to defense of claims of discrimination in federal employment or claims of negligence by federal employees. At any given time, the Civil Division handles a broad variety of such claims. In the past year, the Civil Division has resolved various suits including, for example:

*Bennett v. Potter* A former U.S. Postal Service employee filed suit against the Postal Service, alleging discrimination on the basis of sex, disability, and in retaliation for exercise of EEO rights. After conducting discovery, the United States moved for summary judgment, asserting that, on the undisputed material facts, plaintiff could not succeed in



her claims as a matter of law. The Court agreed, and granted summary judgment to the United States.

*Z.B. v. Ammonoosuc Community Health Services, Inc.* In this suit, under the Federally-Supported Health Centers Assistance Act of 1992 and the Federal Tort Claims Act, the plaintiff alleged negligence by employees of a federally-supported community health center. According to the plaintiff's claim, the employees had negligently failed to recognize signs of child neglect or abuse, thereby not acting to protect plaintiff who suffered traumatic injury at the hands of his father. The United States moved to substitute itself as the defendant for the health center, which the Court granted, and then moved to dismiss the litigation as untimely. The District Court dismissed the claims against the United States. The litigation continues against another defendant and plaintiff will be appealing the dismissal of the United States.

*Sheridan v. Karonis, et al.* This was a constitutional tort and anti-trust action brought against an Assistant U.S. Trustee, arising out of attorney discipline issued to, or disciplinary investigations of, the plaintiff attorney by the U.S. Bankruptcy Court and the Professional Conduct Committee for the State of New Hampshire. The plaintiff sought damages from the defendants, asserting violations of anti-trust laws and his First Amendment rights. The District Court granted summary judgment to all defendants and the First Circuit Court of Appeals affirmed.

### Social Security Disability Appeals

Other defensive litigation involves the Civil Division's representation of the Social Security Administration (SSA) in appeals filed in the U.S. District Court by disability applicants whose applications for disability benefits were denied after a hearing before an Administrative Law Judge.

Following the filing of an administrative transcript and answer, the plaintiff must file his or her brief within 30 days and, within 30 days thereafter, the defendant SSA must file its brief along with a Joint Statement of Material Facts agreed to by the parties. The initial draft of the Joint Statement of Material Facts and the defendant's brief are prepared by Regional Counsel of the SSA. These are reviewed and edited by the AUSA assigned to these cases and his paralegal. The Court decides these cases on the basis of the briefs filed by the parties. The Joint Statement of Material Facts and the evidence in the record is contained in the administrative transcript. In FY 2004, 40 disability complaints were filed. Of the 55 disposed of, 12 were decided in favor of the SSA, 14 were remanded by the Court for further administrative proceedings, 23 were voluntarily remanded by SSA after further review of the evidence, and the remaining were voluntarily dismissed by the plaintiff or otherwise disposed of.

## Asset Forfeiture Unit

The Asset Forfeiture Unit, supervised by the Asset Forfeiture Unit Supervisor Jean Weld, is part of the Civil Division. The Assistant United States Attorneys in the Asset Forfeiture Unit assist other AUSAs in criminal forfeiture actions and handle civil forfeiture actions. The AFU receives its cases by coordinating with the Criminal Division, but also by obtaining referrals from federal, state, and local law enforcement entities. The AFU has seen dramatic increases in both its workload and its success in recent years. The following are several significant forfeiture cases in FY 2004:

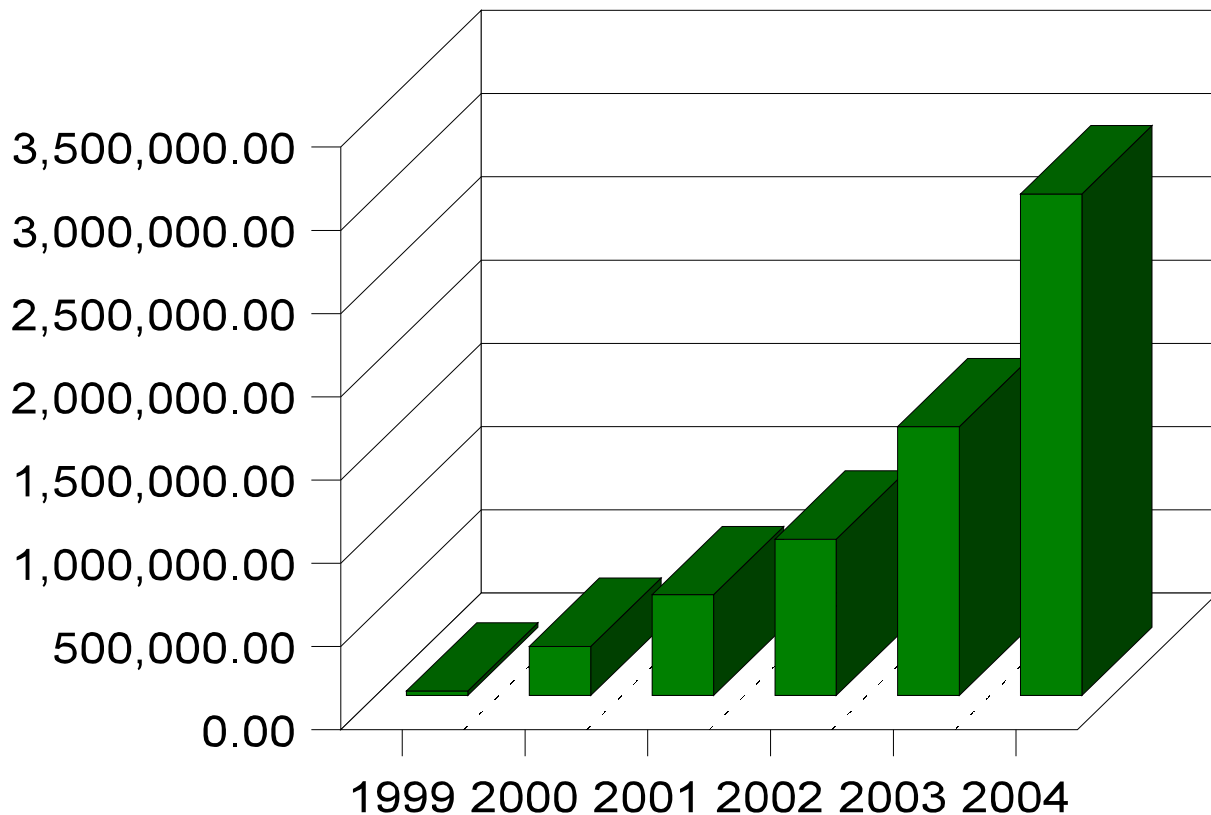
*U.S. v. Funds on Deposit* This on-going litigation involves seizure, under the Patriot Act provision, 18 U.S.C. § 981(k), of approximately \$4.5 million from U.S. correspondent bank accounts of seven banks in the Middle East. The forfeiture action is related to the ongoing criminal prosecution of a Canadian telemarketing organization, and the intent is to use any forfeited funds for victim restitution. Although approximately \$1.4 million of the seized funds have been forfeited, litigation continues over the remaining funds.

*U.S. v. 1996 International Tractor/Trailer unit, et al.* This forfeiture arose following an arrest of a trucker who was transporting and distributing illegal drugs using his tractor-trailer. The United States forfeited the tractor trailer, its contents, two cars, a house, a gun, and \$100,000 in cash. The total value of the forfeitures exceeded \$340,000.

*U.S. v. Land and Buildings at 54 Peggy Drive, Belmont, NH, et al.* The United States instituted this forfeiture, which had both civil and criminal components, as a corollary to a cocaine distribution prosecution by the Criminal Division. Between the cash, accounts, and residence that were forfeited, the United States realized approximately \$350,000 in forfeitures.

As shown by the graph below, monies forfeited by the Asset Forfeiture Unit have increased from \$26,715 in 1999 to over \$3,012,500 in 2004:

### Monies Forfeited By The Asset Forfeiture Unit



### Affirmative Civil Enforcement (ACE)

The ACE Unit pursues civil fraud cases, such as health care fraud and government program fraud, primarily under the False Claims Act, to recover damages and penalties for the United States, and often to obtain injunctive relief to prevent future fraud. The ACE Unit also pursues the enforcement of federal laws and regulations pertaining to the environment, and public health, safety and welfare, including for example the Americans With Disabilities Act (ADA). The ACE Unit also handles "qui tam" litigation, or private citizen-referred lawsuits involving suspected governmental fraud.

Among the ACE cases handled by the ACE Unit and the Civil Division in 2004 were:

U.S. v. Raphael Farra, M.D. This False Claims Act case involved a Manchester, NH, physician who the United States alleged submitted more than 400 false claims for more than 3,200 services to Medicare for nursing home practice. Farra, the medical director of three nursing homes, had patients in other facilities in the Manchester area. The United States alleged that, in submitting claims to Medicare, he submitted for patient visits far in excess of the number he could have actually done. The case settled through a consent decree in which Dr. Farra, although denying liability, agreed to pay slightly over \$285,000.

U.S. v. Henry Lewis, M.D. This False Claims Act case alleged that the defendant, a physician in Laconia, NH, had falsely billed Medicare for medications that his practice had actually received as free samples from the pharmaceutical company that manufactured the medication. The case was resolved by a consent decree in which Dr. Lewis, although denying liability, agreed to pay \$100,000.

U.S. v. Old Dutch Mustard Co., Inc., d/b/a Pilgrim Foods. This environmental enforcement action resulted in the lodging of a consent decree with the U.S. District Court. The case involved alleged Clean Water Act infractions at Pilgrim's plant in Greenville, NH. The agreement addresses issues at the plant relating to storm water runoff from the facilities' raw materials and finished product tank farm, process water discharges, and an oil spill alleged to have occurred in the past, as well as the plant's spill prevention control plans. The Consent Decree seeks to ensure compliance with state and federal environmental laws generally and, in particular, with the National Pollution Discharge Elimination System (NPDES), and to enhance environmental management practices at the site. The Consent Decree imposes a \$190,000 penalty for the cited violations.

### Immigration

The Civil Division handles a variety of immigration-related litigation matters arising out of the enforcement and handling of the immigration laws and regulations by the Department of Homeland Security. For example, this past year, the Division handled U.S. v. Tyler Tri Nguyen, a case in which the United States sought, and obtained, the denaturalization of a naturalized citizen based upon his material misstatement to immigration officials by failing to disclose his criminal record in the application process.

### Bankruptcy Litigation

The Civil Division represents federal agencies in bankruptcy proceedings in which the agencies have a financial interest. In many cases, the Internal Revenue

Service (IRS) has claims in these proceedings. The bankruptcy AUSA, alone, or in conjunction with attorneys from the Tax Division of the Department of Justice, or the SAUSA in the IRS' District Counsel's Office, represent the IRS' interests. Other agencies, including the Department of Agriculture (Farm Service Agency, Rural Housing Service), Department of Housing and Urban Development, Federal Aviation Administration, U.S. Small Business Administration and the Department of Education, are represented primarily by the bankruptcy AUSA. Typical actions involve proceedings to determine the validity and extent of liens, adversary proceedings to determine the discharge ability of certain debts, including student loans and hearings on motions to lift the automatic stay so that a federal lender may foreclose on a defaulted mortgage loan.

### Financial Litigation Unit

The Financial Litigation Unit ("FLU") is responsible for collecting money owed to the United States and crime victims (federal government, individuals, banks, insurance companies and other businesses or entities). Criminal cases include bond forfeitures, special assessments, fines, federal restitution (money owed to a federal agency), and non-federal restitution (money owed to individuals, banks, insurance companies and other entities). Money collected for special assessments and fines goes to aid victims of crime. The proceeds collected in the Crime Victims Fund are distributed by the Department of Justice, Office for Victims of Crime, through grants to state victims compensation and victim assistance programs. Money collected for restitution is paid to the Court and then disbursed directly to the victim, with non-federal entities always taking priority over restitution to a federal agency.

Court-ordered restitution collected by the FLU for payment to non-federal victims for FY 2004 totaled \$408,214.17. Court-ordered restitution collected by the FLU for payment to federal agencies totaled \$7,180.00. Examples of cases where federal agencies would receive restitution are fraud, embezzlement and theft. A total of \$116,038.21 was collected from fines and assessments, and was deposited into the Crime Victims Fund. At the end of FY 2004, the FLU maintained a criminal caseload of 450 criminal debts, totaling \$41,909,782.32.

The FLU's civil cases consist of defaults on government loans (such as Department of Education and Department of Health and Human Services student loans, and Small Business Administration loans), overpayments made by the United States (such as Social Security, veteran's benefits, and Medicare), pre-trial diversion cases (in which criminal prosecution is deferred to pursue civil remedies),

environmental fines and penalties, and monetary penalties owed to the United States as a result of successful civil prosecutions (such as health care fraud, and violations of ADA laws). At the end of FY 2004, the FLU maintained a caseload of 82 civil debts, totaling \$2,288,228.03.

The FLU collects money through voluntary payment plans, wage garnishments, bank garnishments, by attachment of personal property (cars, jewelry, etc.), offsetting federal benefits received by defendants (tax refunds, social security benefits, etc.), and by placing liens against real estate property. Total civil collections for FY 2004 totaled \$3.2 million.

## APPELLATE DIVISION

The Appellate Division is responsible for the District's criminal appellate work that arises from the filing of appeals in the U.S. Court of Appeals for the First Circuit, and the filing of motions by a defendant under 28 U.S.C. § 2255 in the U.S. District Court. The Appellate Division is led by First Assistant U.S. Attorney Peter E. Papps.

A great deal of work was accomplished by the Appellate Division in FY 2004. This year was particularly challenging owing to the uncertainty surrounding the viability of the federal sentencing guidelines in the wake of the Supreme Court's decision in Blakely v. Washington. In that case, the Court decided that the Sixth Amendment right to jury trial requires that any factor that increases a criminal sentence, except for prior convictions, be proved to a jury beyond a reasonable doubt. The Court struck down contrary provisions of the sentencing rules of the State of Washington. Because the federal sentencing guidelines allow or require judges to impose longer sentences based on criteria which the court may find by only a preponderance of the evidence, there is a well-founded concern that the federal guidelines may be rendered invalid by the Blakely decision. Notwithstanding this uncertainty, the Criminal Division and the Appellate Division charted a course that allowed sentencings to move forward that were successfully upheld on appeal. The following is a sample of some of the appeals handled by the Appellate Division.

United States v. Cordoza-Estrada, 385 F.3d 56, No. 03-2666 (1st Cir. 2004). Defendant was convicted in the U.S. District Court for the District of New Hampshire for reentering the United States after deportation, and was sentenced to 18- months imprisonment. Defendant appealed, challenging his sentence. The Court of Appeals held that (1) state court assault conviction constituted an "aggravated felony" conviction,

warranting sentencing increase; (2) sentencing increase did not violate Blakely; and (3) even if increase did violate Blakely, there was no plain error.

United States v. Morgan, 384 F.3d 1, No. 03-1768 (1st Cir. 2004). Defendant was convicted on conditional guilty plea of narcotics trafficking, and he appealed his sentence. The Court of Appeals held that: (1) District Court's sentencing-hearing finding that only 80 to 100 kg of drugs could be attributed to defendant, rather than the 100+ kg alleged by government, did not, by itself, serve as proof of defendant's truthfulness; (2) District Court was justified in denying defendant's motions for downward sentencing departures under Sentencing Guidelines' safety-valve and substantial-assistance provisions; and (3) District Court did not plainly err by making its own finding at sentencing as to amount of drugs attributable to defendant.

United States v. Burnette, 375 F.3d 10, No. 02-1814 (1st Cir. 2004). Following jury trial before the U.S. District Court for the District of New Hampshire, defendant was convicted of wire fraud and impersonating an employee of the United States. Defendant appealed. The Court of Appeals held that: (1) defendant did not show reasonable expectation of privacy in outside of mail when government agents inspected it at private postal facility, and (2) District Court did not clearly err in crediting government agent's testimony.

United States v. Winn, 364 F.3d 7, No. 03-1534 (1st Cir. 2004). Defendant was convicted, pursuant to his guilty plea, in the U.S. District Court for the District of New Hampshire, of conspiracy to distribute and to possess with intent to distribute cocaine, and he appealed his sentence. The Court of Appeals held that defendant's non-violent felony escape under New Hampshire escape statute was properly characterized as a "crime of violence" for purposes of career offender enhancement.

United States v. Beaudoin, 362 F.3d 60, Nos. 02-1757, 02-1850. (1st Cir. 2004). Defendants, who were arrested while staying at a motel, were convicted on conditional guilty pleas in the U.S. District Court for the District of New Hampshire of narcotics trafficking, and they appealed denial of their motions to suppress evidence. The Court of Appeals, held that: (1) Terry detention of first defendant, who had answered officers' knock, was justified by emergency and exigent circumstances, given report of drug dealing and possible dead body in motel room and other circumstances; and (2) under inevitable discovery doctrine contraband found when officers entered motel room and searched second defendant, before results of pat-down of first defendant were known, was admissible.

United States v. Ghalashahi, 92 Fed. Approx.. 6, 2004 WL 549762, No. 03-1770. (1st Cir. 2004). Defendant was convicted in the U.S. District Court for the District of New Hampshire, of extortion, conspiracy to commit extortion, and receiving proceeds of



extortion, and he appealed. The Court of Appeals held that: (1) District Court did not abuse its discretion in reserving its ruling on defendant's motion for judgment of acquittal made at end of government's case-in-chief, and (2) there was sufficient evidence to support defendant's conviction for extortion.

## ADMINISTRATIVE DIVISION

The Administrative Division is responsible for planning and executing a comprehensive range of administrative services which support office operations, personnel management, financial management, systems and information management, and office services. The support provided by the Administrative Division is critical to the effective and efficient operations of the office.

The Division is managed by Administrative Officer Peter Kawonczyk, who is the principal administrative advisor to the U.S. Attorney. The Administrative Officer provides guidance on the management and use of the District's financial, personnel, and physical resources, as well as administrative policies, procedures and practices. The Administrative Officer supervises a support staff of six employees as well as students and contract workers. This dedicated team assists the Administrative Officer and the U.S. Attorney's Office as a whole, in the following primary areas:

### Personnel Management & Human Resources

The United States Attorney's Office has recently added to its staff a Human Resource Specialist. The Human Resource Specialist is responsible for all personnel matters from recruitment to retirement. The addition of this staff position will improve efficiency by allowing many issues to be handled locally that were previously handled by personnel at the Executive Office for United States Attorney's in Washington, D.C.

### Financial Management

The Administrative Division has a variety of important responsibilities relating to the financial management of the U.S. Attorney's Office. The office is funded through an appropriation which is assigned to the District on a quarterly basis. Maintaining accountability in financial matters is a mission that is carried out with the utmost care.

## Systems and Information Management

Within the Administrative Division, an Information Technology (IT) section works hard to maintain the Office's computer servers as well as laptop computers. The IT section also maintains an intranet website for use by staff, and the new public website located at [www.usdoj.gov/usao/nh](http://www.usdoj.gov/usao/nh). During the past year, the electronic tools available to our attorneys and staff have continued to expand with the introduction of a desktop fax utility, enhanced scanning capability through a dedicated scanner as an integration of a new copy/scanner into the network. Training was also provided on a range of topics such as Microsoft Outlook, LIONS, CD-R/RW operation, Windows Explorer and others.

## Support Services

The Administrative Division is responsible for numerous support services including procurement and contracting and office security and facilities management. The Division administers a wide range of services vital to the workings of the Office. This year, updated system-integrated copy machines were added to perform a range of tasks which improved the efficiency of the office. Another accomplishment was the acquisition of dedicated computer terminals through which the Office is now able to communicate and share information securely with the New Hampshire State Police and federal law enforcement agencies. An Automated External Defibrillation Unit was also acquired, and eight members of the U.S. Attorney's Office staff have been trained to use this equipment in the event of a health emergency.

## UNITED STATES ATTORNEY'S OFFICE INITIATIVES

The U.S. Attorney's Office has instituted a number of significant initiatives in the District of New Hampshire, and has become a partner in many others. These initiatives are designed to make the most of the Department of Justice's resources for the people of New Hampshire. All of the U.S. Attorney's initiatives share a common philosophy that places an emphasis on working cooperatively with others in New Hampshire's communities. The initiatives also share the common purpose of making New Hampshire a better and safer place to live.

## Project Safe Neighborhoods



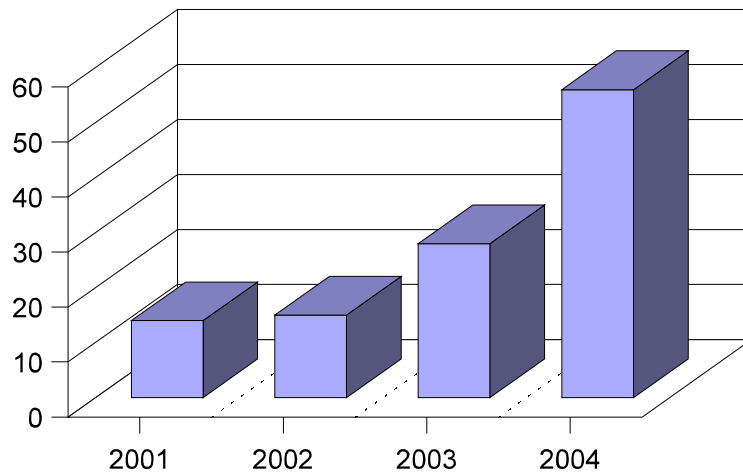
Project Safe Neighborhoods (PSN) is a federally-funded program intended to reduce gun violence through law enforcement training, public education, and aggressive law enforcement efforts to investigate and prosecute gun-related crimes. It is coordinated by the U.S. Attorney in each federal district. U.S. Attorney Tom Colantuono is assisted in the PSN initiative by Assistant U.S. Attorney Clyde Garrigan, who serves as PSN Coordinator in New Hampshire. The project is overseen by a Task Force of federal, state, county and local law enforcement officials from throughout the state, which meets regularly. The PSN Task Force includes representatives of the following agencies:

Bureau of Alcohol, Tobacco, Firearms  
and Explosives  
Eastlantic Advertising (Media Partner)  
Hillsborough County Attorney's Office  
JusticeWorks (Research Partner)  
St. Anselm's College  
University of New Hampshire  
Manchester Police Department  
Merrimack County Attorney's Office

Nashua Police Department  
New Hampshire Department of  
Corrections  
New Hampshire Department of Justice  
New Hampshire State Police  
Portsmouth Police Department  
Rockingham County Attorney's Office  
U.S. Marshals Service  
U.S. Probation Office

Since the PSN program was initiated in New Hampshire in May of 2001, the U.S. Attorney's Office has seen a significant increase in the number of investigations and prosecution of gun crime cases. In FY 2004, the Office prosecuted a record fifty-three (53) gun crime cases. Sentences imposed in PSN cases are also significant. Data shows that in 2003, approximately forty-eight (48) percent of defendants convicted of federal firearms offenses in New Hampshire were sentenced to serve more than three (3) years in federal prison.

## Gun Crime Cases



2001 12 Cases

2002 13 Cases

2003 28 Cases

2004 53 Cases

New Hampshire recently received a federal grant through PSN to fund the hiring of a full time investigator and prosecutor who will focus exclusively on gun crimes. The investigator will be based in the Hillsborough County Sheriff's Office, and will be deputized as a federal agent for the Bureau of Alcohol, Tobacco, Firearms and Explosives. The prosecutor will be based in the Hillsborough County Attorney's Office, and will be cross-designated as a Special Assistant U.S. Attorney to allow prosecutions to be pursued in all state courts as well as U.S. District Court. Gun cases will be pursued wherever the maximum good can be achieved, whether in state or federal court.

Another focus of PSN is reducing incidents of gun violence among children and teenagers. Federal grant monies will be used to fund a Manchester Police Athletic League program targeting At-Risk Youth in public housing, combining education about the dangers of gun violence with an athletic program. Other programs to encourage gun safety and discourage gun violence among youth are being funded in Concord and Laconia.

Training is also being provided through PSN to familiarize police officers about federal firearms laws, and to instruct officers on how to effectively investigate gun crimes. Trainings were held in Manchester in February 2004 and in Concord in May 2004, and additional trainings are being planned. In conjunction with the New Hampshire Police Standards and Training Council, the U.S. Attorney's Office is producing a "roll call" video which is a primer on federal gun law. It is currently being edited and will be distributed to every law enforcement agency in New Hampshire when completed.

Part of the mission of Project Safe Neighborhoods is also to educate the public about the consequences of committing firearm offenses. Our media partner, Eastlantic Advertising, produced a multi-media campaign based on the theme that "In New Hampshire, Gun Crime Means Hard Time." Public service television ads, newspapers, radio ads, posters and brochures, and a half hour PSN video were all created. The media campaign was launched on March 4, 2004, and has been widely publicized. The U.S. Attorney has personally taken the campaign to the public by speaking to various community service organizations throughout the state.

For more information about PSN, contact AUSA Clyde Garrigan at 603-225-1552 or log onto [www.psn.gov](http://www.psn.gov).



PSN Team Photo - PSN National Conference, June 17, 2004, Kansas City, MO

Front Row left to right: NH Attorney General's Office Criminal Justice Program Specialist Karen Jensen; University of NH Professor Jack Humphrey, PhD; Attorney General John Ashcroft; U.S. Attorney Tom Colantuono; Hillsborough County Attorney Marguerite Wageling; and Eastlantic Advertising President Franne Ciriello.

Second Row left to right: Bureau of Alcohol, Tobacco, Firearms and Explosives (BATFE) Special Agent in Charge of the Boston Field Office William J. Hoover; BATFE Assistant Special Agent in Charge of the Boston Field Office Daniel Kumar; Manchester Police Chief John Jaskolka; NH State Police Executive Major Barry Hunter; and, PSN Coordinator Clyde R.W. Garrigan.

## Weed and Seed

The U.S. Attorney's Office for the District of New Hampshire has developed a "Weed and Seed" initiative designed to create conditions that will allow certain areas of Manchester to become a much safer and healthier place to live. The Weed and Seed site was successfully established in Manchester with the help of Manchester's local government, the Manchester Police Department and the many service providers and non-profit organizations which comprise our Steering Committee. Federal partners include the Department of Housing and Urban Development, the FBI, DEA, Immigration and Customs Enforcement, the U.S. Marshals Service and the U.S. Probation Office. Weed and Seed's successes include "Teen Night," a recreational evening event held each Saturday at Manchester's Boys and Girls Club, which provides a safe and positive environment for approximately 100 teenagers who previously had no safe alternatives for weekend recreation in the target neighborhood. A Project Safe Neighborhoods grant has also been awarded which will help the Manchester Police Athletic League (MPAL) to educate neighborhood youth on the dangers of gun violence, drug abuse and gang participation. Earlier this year, Manchester's Weed and Seed partners helped MPAL celebrate the opening of the MPAL's building. This facility, located in the heart of our site, is a welcome addition to our overall strategy, providing another resource for the neighborhood residents and an additional safe haven location.

## Operation Streetsweeper

In 1995, the U.S. Attorney's Office and the Manchester Police Department agreed that an aggressive federal/state initiative was essential if Manchester's growing crack cocaine problem was to be curtailed. This led to a partnership that resulted in the federal prosecution of street-level crack cocaine dealers in Manchester. The application of federal sentencing laws and the combined use of federal and local law enforcement resources had a significant impact on drug and other violent crime in Manchester.

Operation Streetsweeper later received a significant boost from United States Senator Judd Gregg in the form of special federal funding. Responding to Senator Gregg's desire to increase the use of federal resources to combat violent crime in New Hampshire, Operation Streetsweeper was expanded to address all varieties of violent crime, and to combat violent crime throughout the state. Another key component of the new program was the addition of special funding to assist state and local law enforcement agencies through Operation Streetsweeper grants administered by the U.S. Attorney's Office.

Since the overhaul of the Operation Streetsweeper program, the U.S. Attorney's Office has received, in addition to its regular budgets, special Operation Streetsweeper funding of at least \$1,000,000 every fiscal year since 1997. This Operation Streetsweeper violent crime funding has been used to fund seven attorney and staff positions in the U.S. Attorney's Office and to assist state and local law enforcement agencies through anti-violent crime grants.

Operation Streetsweeper grant applications are submitted by state and local law enforcement agencies to the U.S. Attorney's Office through the Law Enforcement Coordinator. An Operation Streetsweeper grant application must include a statement of need which describes a specific violent crime problem. The application must also delineate how the requested Operation Streetsweeper funding will serve to alleviate the identified violent crime problem. It must also identify all proposed expenditures. The Law Enforcement Coordinator is available to assist applicants throughout the Operation Streetsweeper grant process.

### Identity Crimes Working Group

The U.S. Attorney has formed an Identity Crimes Working Group (ICWG) as a forum for federal, state and local government and law enforcement agencies to develop strategies to combat identity theft and related crimes in New Hampshire. Approximately 30 agencies currently participate in the ICWG.

The growth in identity crime, the link between identity crimes and terrorism, the frequent misuse of passports, social security numbers and other identifying information, and the prevalence of the internet as a tool in the commission of identity crimes, have all contributed to making identity crimes a federal priority. For all these reasons, U.S. Attorney Colantuono has adopted an aggressive strategy for prosecuting identity crimes in New Hampshire. A key feature of the strategy is that the U.S. Attorney's Office imposes no loss "thresholds" in determining whether to accept cases for prosecution. This policy recognizes that dollar loss is but one of the harms that are caused by identity theft, and that it is better to attack an identity crime before, rather than after, the dollar loss damages multiply.

ICWG participants are encouraged to make specific investigation referrals to law enforcement agents at the ICWG meetings. Referrals made through the ICWG have resulted in a number of recent federal prosecutions. One involved a fraud committed by a subject who lived under a false identity for approximately 20 years

and had a history of serious crimes, including kidnapping. Another involved a subject who committed numerous frauds while using eight separate identities, both male and female.

ICGW meetings are held at the U.S. Attorney's Office on the third Tuesday of every month. The U.S. Attorney invites all agencies concerned with identity theft to participate in the Working Group. Additional information about the ICGW can be obtained by contacting Assistant U.S. Attorney Alfred Rubega at 225-1552, or by e-mail at [Alfred.Rubega@usdoj.gov](mailto:Alfred.Rubega@usdoj.gov).

### Health Care Fraud Working Group

U.S. Attorney Tom Colantuono has formed a Health Care Fraud Working Group (HCFWG) to bring together federal, state and local government and law enforcement agencies to develop effective strategies to combat health care fraud in New Hampshire. The HCFWG is composed of representatives of the Federal Bureau of Investigation, U.S. Food & Drug Administration, Drug Enforcement Administration, U.S. Postal Inspection Service, U.S. Health & Human Services Office of Inspector General, the New Hampshire Attorney General's Medicaid Fraud Control Unit, the New Hampshire State Police, the New Hampshire State Board of Pharmacy, and the New Hampshire Insurance Department, as well as representative of local police agencies.

The HCFWG seeks to bring an aggressive approach to the civil and criminal prosecution of cases involving health care fraud. Both the U.S. Attorney and the New Hampshire Attorney General have designated health care fraud a priority area. Working group members develop proactive initiatives to identify instances of criminal fraud in the health care industry and to combat all fraudulent, wasteful and abusive practices involving health care institutions. This aggressive, cooperative approach sends the clear message that corrupt practices affecting health care will not be tolerated.

HCFWG members coordinate their investigations with their federal and state partners to ensure that resources are used effectively and that cases yield the most appropriate penalties. Early coordination has proven to be the key to ensuring that all criminal and civil penalties available under federal and state laws are considered and that the best possible course of action is pursued. In addition to dealing with issues involving the Medicare and Medicaid programs, HCFWG members pay close



attention to other issues of concern, including counterfeit drugs and prescriptions, insurance fraud, false billings, product substitution and scams directed at elderly patients.

Meetings of the HCFWG are held quarterly at the U.S. Attorney's Office or the New Hampshire Attorney General's Office in Concord, NH. Additional information about the U.S. Attorney's Health Care Fraud Working Group can be obtained by contacting Assistant U.S. Attorney Robert Kinsella at (603) 225-1552 or by e-mail at [Robert.Kinsella@usdoj.gov](mailto:Robert.Kinsella@usdoj.gov)

# UNITED STATES ATTORNEY'S OFFICE AUSA's

First Assistant U.S. Attorney

Peter E. Papps

Executive Assistant U.S. Attorney

Michael J. Gunnison

## Criminal Division

Don Feith, Criminal Chief

## White Collar Crime Section

Bob Kinsella, Supervisor

Arnold H. Huftalen

Mark Irish

Mark Zuckerman

Bill Morse

Alfred Rubega

## Violent Crime Section

Joe Laplante, Supervisor

Robert J. Veiga

Clyde Garrigan

Terry Ollila

Helen Fitzgibbon

Mark Howard

Aixa Maldonado-Quinones

## Civil Division

Gretchen Leah Witt, Civil Chief

T. David Plourde

David Broderick

John Farley

## Asset Forfeiture Section

Jean Weld, Supervisor

Rob Rabuck

## Appellate Division

Peter E. Papps

Mark Howard

# UNITED STATES ATTORNEY'S OFFICE CONTACTS

United States Attorney's Office  
55 Pleasant Street  
Concord, New Hampshire 03301  
603-225-1552  
603-225-1470 - FAX

## Public Affairs Contact

Linda Tomlinson, Secretary to the U.S. Attorney  
603-225-1562 x 281

## LECC Contact

Mark Long, Law Enforcement Coordinator  
603-225-1562, x274

## Victim/Witness Coordinator

Sheila E. Roux, Victim/Witness Specialist  
603-225-1562, x 227  
603-225-1470 - fax  
603-731-3725 - cell  
1-800-329-3467 - pager